

# In the Supreme Court of the United States.

OCTOBER TERM, 1921.

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JOHN HILL, Jr., ET AL., APPELLANTS,	}	No. 616.
<i>v.</i>		
HENRY C. WALLACE, SECRETARY OF AGRICULTURE, et al., appellees.		

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## MOTION.

Comes now the Solicitor General and, on the petition of Henry C. Wallace, Secretary of Agriculture, filed herewith and made a part hereof, moves the court to vacate the order entered herein on November 21, 1921, and without prejudice to the rights of any of the parties, to substitute in lieu thereof an order in accordance with the prayer of said petition.

JAMES M. BECK,  
*Solicitor General.*

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such trading is carried on under certain other conditions which may not obtain in the bulk of the transactions as ordinarily conducted on said board.

6. That your petitioner is informed and believes that the possibility of having to pay said tax may result in complete and abrupt cessation of future trading in grain on said board during said period because such trading normally is continuous, the volume of transactions is great and said tax is substantial in comparison with price fluctuations in grain, as alleged in the bill of complaint herein, and may therefore cause other members of said board, as well as the appellants herein, to feel that, as alleged in the bill of complaint, they can not afford to deal in future contracts in grain while their liability for the payment of said tax is uncertain.

7. That said board of trade is the leading grain exchange in the United States and your petitioner is fearful that sudden and abrupt cessation of future trading in grain thereon might result in serious inconvenience and perhaps great losses, not only to the members of said board of trade but also to the grain growers of the United States and to other persons using grain in their business, such, for instance, as millers and feeders of live stock, who depend upon and utilize the hedging facilities afforded by said board of trade to insure them against losses and to enable them, as they claim, to sell their products to the ultimate consumer on a much narrower margin of profit than they would otherwise be able to do, so that ultimately such sudden

and abrupt cessation of trade might affect all of the people in the United States, or at least a great percentage thereof, adversely.

8. That the injury which may thus be wrought upon the membership of said Chicago Board of Trade who are not complainants in this suit, as well as upon the public generally, and which board of trade, as aforesaid, desires that it be designated by your petitioner as a contract market, would be out of all proportion to the injury which possibly could be inflicted upon the appellants by vacating the order of November 21, 1921, and granting the relief herein prayed for, since it appears from the bill of complaint in this suit that the only substantial injury, if any, that might be suffered by the appellants, *pendente lite*, would be through the admission to membership on said board of trade of the representatives of cooperative associations against which possible injury the appellants would be fully protected by the granting of the relief herein prayed for.

The premises considered, your petitioner, appearing solely for the purposes of this petition and for no other, respectfully prays:

1. That the order of November 21, 1921, aforesaid, be vacated, and, with a view to preserving, *pendente lite*, the interests of all parties to the suit and otherwise there be substituted in lieu thereof an order—

(a) Restraining until twenty (20) days after final judgment herein the Board of Trade of the city of Chicago and its officers and direc-

tors from admitting to membership thereof and privileges thereon any representative of any cooperative association of producers not otherwise admissible to membership by virtue of the rules of said board of trade in effect prior to the institution of this suit, and from making and filing for or requiring appellants to make and file any report required by any rule or regulation issued by the Secretary of Agriculture under the future trading act.

(b) Restraining during said period the said Henry C. Wallace, Secretary of Agriculture, from refusing to designate said board of trade as a contract market under the future trading act solely because of the refusal of said board of trade to admit to membership thereof and privileges thereon any representative of any cooperative association of producers not otherwise admissible to membership by virtue of the rules of said board of trade in effect prior to the institution of this suit, and from enforcing during said period any rule or regulation issued by the Secretary of Agriculture under the future trading act by which appellants, or said board of trade for them, would be required to make and file reports with the Secretary of Agriculture.

2. And for such other, different, or further relief in the premises as to this honorable court may seem appropriate.

HENRY C. WALLACE,  
*Secretary of Agriculture, Petitioner.*

JAMES M. BECK,  
*Solicitor General.*

CITY OF WASHINGTON,

*District of Columbia, ss:*

Henry C. Wallace, being duly sworn, deposes and says: That he has read the foregoing petition by him subscribed and knows the contents thereof, and that the facts therein stated are true to the best of his information and belief.

HENRY C. WALLACE.

Subscribed and sworn to before me, at Washington,  
D. C., this third day of December, 1921.

[SEAL.]

JAMES B. HORIGAN,

*Notary Public in and for the District of Columbia.*